

COLERIDGE AND THE RULE OF LAW ON MALTA : ‘STATE-CRAFT’ AND THE ‘DEPOSITORY OF THE SUPREME POWER’

Barry Hough, Portsmouth Law School

The venerable Public Secretary and Treasurer of Malta, Mr Macaulay, died suddenly during a thunderstorm in January 1805. Sir Alexander Ball, the Civil Commissioner, approached Coleridge to act as Public Secretary *pro tempore*. The British government had already nominated a Mr Chapman, to become Macaulay’s successor; but this hapless official was at the time absent from Malta purchasing grain in sufficient quantities to feed the Island for a year. Chapman could not be recalled from the Black Sea region until this strategically important mission had been completed.

Coleridge, who was merely a private visitor to Malta seeking a cure for his opium addiction, might not appear to have been an ideal temporary appointee to the most senior civil servant’s post. In fact, his presence on the Island was opportune. Coleridge’s popular journalism in England had demonstrated his flair in influencing public opinion, which Ball could now exploit. The British administration was beset by policy failures that were undermining Ball’s authority, popularity and reputation amongst the Maltese.

Many of the labyrinthine functions of the Public Secretary were delegated to other officials whilst Coleridge held office. Amongst his remaining responsibilities Coleridge undertook a public information campaign to re-

establish the popularity and authority of the British administration. This was done in part by disguising the problem that the interests of the colonial power are not always aligned with those of the local population. One of Coleridge's tasks was to persuade the Maltese that British governmental policies served their best interests, which sometimes meant disguising their true purpose. He also had to reverse Ball's declining popularity.

Coleridge would have been aware of the morally ambiguous position he now occupied. Whilst formal conventions on the use of government information had not yet been developed in his time, *The Friend* reveals that Coleridge was aware that moral integrity required the accuracy of the "total impression left by...words". He observed in *The Friend* that message might be accurate but misleading because it was incomplete (1,49). Omissions are, as Coleridge well knew, as important to the truth of a message as inclusions.

In *The Friend* Coleridge explored the origins of political obligation, of the relationship between citizen and state, the relationship between law and justice, the characteristics of a just Constitution, and above all the characteristics of a wise governor. In particular, the posthumous eulogy of Ball, whom he celebrated unreservedly as the embodiment of an ideal governor, reveals that Coleridge's thought was heavily influenced by his Malta experiences. But *The Friend* is problematic. First, we can ask whether Coleridge truly believed that Ball's policies were the exemplary courses of action of a wise and prudent government? If he did, what justified Ball in departing so comprehensively from the principles of just administration that Coleridge would stipulate in *The Friend*? How Coleridge imagined the

relationship between the British administration and the provincial population is an intriguing enigma of *The Friend*.

The Friend also explored how the civil rights and freedoms of citizens could be safeguarded. The protection of civil liberties had become a significant cause of tension during Coleridge's period in office (Memorial and Petition of the Maltese, British National Archive, Kew, CO 158/10/151). The present article draws on the Ball's criminal justice policies to explore some of the essential claims that Coleridge made. How far did Coleridge disguise Ball's true record? Did *The Friend* prescribe universal entitlements that would extend to British occupied territories, such as Malta? Since he understood just government as one founded on Reason which is "the fountain of all morality", a significant question is whether Coleridge regarded Reason as a morally informed system permitting different public law and administrative standards in overseas territories (I, 191)? What does *The Friend* tell us about Coleridge's thought on colonial rule?

Maltese Context.

In The Origins of the British Colonial System 1578- 1660 Beer describes how the shock sustained by the British political class after the successful secession of the American colonies produced a paradigm shift in the strategy for future colonial government. By the close of the eighteenth century, power was not to be shared with local population, especially where the territory was not intended for settlement by British settlers. Following the British conquest of Malta, the British decided to continue in force the institutions of the

ancien regime, the Grandmasters of the Order of St John, and the existing corpus of Maltese law. The law making power and executive authority was then exclusively vested in the hands of the Civil Commissioner. In Malta there was to be no representative assembly, which meant that the Maltese were not to be consulted about policy, nor British policies formally debated by the Maltese elites (Royal Instructions, Hobart to Cameron, May 14th 1801, Kew, CO 158/1/88).

One consequence of the ‘continuation’ strategy affected the criminal justice system. An important feature of this system was that a Maltese could petition the Civil Commissioner in the *Segnatura* (Council) to have the sentence of the court disapplied or amended in their case. As William Eton described in his Authentic Materials for a History of the People of Malta, Ball could dispense justice, overturn court decisions and intervene in administrative process at will; there were no significant constitutional restraints on his powers.

Whether the *exercise* of such unlimited, autocratic despotic powers was consistent with just and effective government was a different matter. The British had not appreciated that the Royal Instructions for the government of the Islands were potentially contradictory. Continuing the laws and policies of the former Grandmasters of the Order of St John might not be consistent with the other primary strategic obligation: the “attachment” of the Maltese to British rule (Downing St to Ball, June 9th, 1802, Kew, FO 49/3/51). In other words, Ball had to ensure the popularity of his administration so that the Maltese would not question the legitimacy of British rule. The misplaced

assumption was that the exercise by the Civil Commissioner of the unrestrained autocratic powers of the former Grandmasters could be effective both for the vindication of British Imperial interests and achieving popularity with the Maltese. This assumption was fundamentally ill-judged.

The British response to the anti-Semitic disturbances of May 1805, in which Coleridge played a significant part, reveals that civil liberties depended upon the caprice of the Civil Commissioner. The events unambiguously disclosed that the Rule of Law and the principles of a fair trial recognised by the English Common law had no place on Malta in the early British period. This was so even though, in International law, the Maltese had become British subjects at the time of the British conquest.

In a limited, constitutional sense, the absence of criminal justice standards familiar to English Common lawyers was not surprising because the continuation of Maltese law meant that necessarily the English Common law would have no place on Malta. But this formal proposition overlooks the central point. This is that justice could not be achieved, and popularity ensured, if Ball used his full Constitutional authority to hold unfair trials and impose harsher sentences than the Maltese Criminal Code allowed. As Coleridge observed in *The Friend*, “a Constitution equally suited to China and America (..) must surely be equally unfit for both”, but morally informed and crucially effective government must be founded on the essential principles of fairness and the Rule of Law (I, 179). Significantly, both Ball and Coleridge understood this. As Coleridge stated in *The Friend*, “Laws

obligatory on the conscience, can only therefore proceed from that Reason which remains one and the same..” (I, 192).

Ball as Naval Commander

Before turning to the British response to the anti-Semitic disturbances I want to draw attention to Coleridge’s narrative about Ball as a navy captain. It was the alignment of Balls methods to the values of the rule of Law, most notably the principles of a fair trial that distinguished Ball a just and effective commander. The point Coleridge to put across to his readers was that Ball understood that the Rule of Law fundamentally serves both the interests of justice *and* effective government.

As a naval commander facing a mutinous crew Ball had abandoned the use of punishment to instil fear, which he judged would only suppress open violence and encourage the mutinous crew to engage in “secret plots and conspiracies”. He seems to have understood that adherence to prescribed, published rules provided for certainty and the predictability of punishment, which was a key ingredient of fairness. As Coleridge emphasised, “The new commander [Ball] instantly commenced a system of discipline *as near as possible to that of ordinary law..*” (Emphasis supplied)

In landmark cases such as *Entick v Carrington* ((1765), 19 *Howell’s State Trials* 1029) the Courts in England and Wales had held that a person can only be convicted of an offence that had earlier been enacted into law. An official who acts without existing legal authority acts unconstitutionally and,

if that conduct unlawfully violates an individual's right to property or liberty, the official responsible is personally liable to pay damages.

Ball ensured that a list of offences against military discipline, together with the penalty for infraction, was prominently displayed on the ship. Crucially, no officer on was entitled to vary the prescribed punishment, not even Ball himself. Ball would also ensure a fair trial since the accused seaman would be given twenty four hours in which to prepare a defence (*The Friend I*, 169-70).

The Civil Commissioner understood that a fair trial culminating in a punishment set within the maximum limits prescribed by the law is a fundamental principle that was conducive to effective leadership. According to Coleridge, Ball knew that this took away "the very will of resisting". Thus exercising power according to pre-established norms serves both deontological and consequential purposes.

Rule of Law

The principle that there can be no punishment except in accordance with a pre-determined law is almost a self-evident principle of justice that underpins most constitutions and, in our modern age, human rights instruments. In his De L'esprit Des Lois Montesquieu regarded the rule of law as a response to the concern that the arbitrary exercise of sovereign powers concentrated in the sovereign often results in despotic exercise of authority.

Montesquieu also promoted the idea of a separation of powers, which includes the principle that judges rather than politicians should try and punish offenders, and that executive and judicial powers should be exercised by different organs of the state.

Coleridge would go further than this. He understood, and would explain in *The Friend*, that principled and moral government delivered appropriate and just policy outcomes, whereas unprincipled interventions resulted only in short term political 'fixes'. In the case of a warship, the adherence to the Rule of Law resulted in loyalty, discipline and efficiency. So much for a Royal Navy crew, what about Maltese civilian government?

The anti-Semitic disturbances

Tensions between the Maltese and the recently arrived Jewish immigrants culminated in an outbreak of anti-Semitic hysteria on Saturday, May 18th, 1805 (CN 2 2646). As Coleridge later recorded in *The Friend*, the outbreak was a grave emergency (1, 544). He later described his shock when he thought he was about to witness "an intended massacre" of the Jews (to Hyman Hurwitz, January 4th 1820, unpublished, but noted, CN 2 2646n).

Witness evidence supports Ball's later claim that the root of the disorder lay in the competition that the Jews provided to established Maltese businesses. When a Jew was jostled and insulted in St Paul's Street, Valletta, the angry Maltese shoemakers of the district surrounded him complaining that the Jews were taking the bread from their mouths (NAM 92/04 1805, May 21st, 1805).

During the night of May 18th-19th, 1805, agitators untruthfully complained to each other that they had been assaulted or threatened by Jews. Hostile Maltese spread rumours that Jews were hunting their children for ritual slaughter - a reference to the ancient blood-libel traceable to Thomas of Monmouth's The Life and Passion of St William the Martyr of Norwich, 1173). Alcohol played its part in emboldening the aggressors.

Outside Valletta and the four Cities passers-by thought to be Jews became vulnerable to attack. An attempt was made by a woman in Città Notabile (modern day Mdina) to have a man stoned. Fortunately, he was rescued unharmed by a sympathetic Maltese, although this intervention was not because the rescuer intended to save a Jew, but because the victim was known to be a French prisoner of war (National Archive of Malta 92/04, 1805). What the outcome might have been had the prisoner been Jewish remains speculative.

The atmosphere was undoubtedly tense. A crowd of more than two thousand people marched through Valletta in protest at the presence of the Jews (Ball to Windham, February, 28th, 1807, Kew, CO 158/13/25). Because their former ruler, the Grandmasters, had banned Jewish immigration, the demonstrators wanted to obtain a change of government policy. They were undoubtedly heading for the seat of government. Coleridge, who was present at the time, expressed what must have been the British reaction as they witnessed the large, noisy crowd approaching. The British authorities responded quickly. They detected and arrested the ring-leaders, interrogated them, framed the prosecutions and immediately conducted the trials.

Coleridge publicly announced the first convictions in an *Avissi* or Public Notices. The first was on Wednesday, May 22nd, 1805 (LIBR/MS 430 2/2 Bandi 1805 AL 1814 f8) and the second on May 25th, 1805 (*ibid.*, f9). In the latter, Coleridge explained why Ball had sentenced Fortunata Tagliana, the female anti-Semite responsible for the attempted stoning of the Frenchman in Città Notabile, to life-long exile. His account was perhaps designedly misleading, which poses interesting questions about Coleridge's use of government information. An analysis of the document falls outside of the scope of the present article.

His purpose in publishing the each of the *Avissi* was to deter future expressions of anti-Semitic hatred. Borg, Hasciach and Bonello were each named and identified to their fellow citizens as instigators of anti-Semitic rumour-mongering. Their punishments were severe ones: each was to be whipped and banished from Malta for an indeterminate period.

The remaining text of Coleridge's instrument of May 22nd 1805 is as follows:

"His Excellency is determined to treat in the same manner all others who are discovered to have started, or who have been complicit in similar gossip. This includes those who have repeated these rumours in normal conversation, and those who, finding themselves present during the relation of such rumours, did not attempt to undeceive the listeners, or to inform the Tribunal of the Grand Court of Valletta.

As this is a situation which regards the peace of the public, the principal aim of any civil society, no status or condition of person, and not even minors, shall be exempt from the severity of the punishment.”

This text discloses three problems, each of which reveals that Rule of Law and the separation of powers were principles that were not respected in the early British period.

The first concern is that the Civil Commissioner rather than the trial judge was identified as the author of the sentences. This appears to be a public admission that the Maltese judiciary were not entitled to act independently of government. Coleridge is surprisingly uninhibited in telling the Maltese that their liberty depended on Ball and not the decision of the judge; in other words, punishment could be imposed according to the preferences of a politician rather than a judge enforcing the law.

A court document dated May 24th. 1805 relating to the conviction of Fortunata Tagliana corroborates this conclusion about Ball’s criminal justice policy. The document unambiguously stated that Tagliana’s punishment was imposed by the Civil Commissioner and that the judge was acting on his direct orders. The material part of the document is as follows:

“From [Notabile] she will be banished to the island of Gozo for as long as His Excellency sees fit. This is in line with the order given yesterday by His Excellency to the Judge” (NAM 92/04,1805).

But this is not all. In the case of Borg, Hasciach and Bonello the sentence of exile was not permitted by the Maltese Criminal Code, the *Code de Rohan*. Thus the punishment Ball imposed was more severe than the maximum permitted under the law.

Coleridge's text reveals further concerns. He stated:

“His Excellency is determined to treat in the same manner all others who are discovered to have started, or who have been complicit in similar gossip. This includes those who have repeated these rumours in normal conversation, *and those who, finding themselves present during the relation of such rumours, did not attempt to undeceive the listeners, or to inform the Tribunal of the Grand Court of Valletta.*” (Emphasis supplied).

The emphasised text extends the existing law. It makes clear that Ball had announced that he would in future punish certain behaviour. There was no suggestion that the Civil Commissioner was about to alter the law to make this possible: his decision that certain conduct would henceforth be punishable was sufficient. Coleridge unambiguously recorded that Ball would in future punish those who did not report rumour mongering. It signals that Ball was ready to punish any behaviour of which he wished to censure, whether or not it was legally prohibited. Any activities of which Ball disapproved could become punishable on his *ipse dixit*. The implications for civil liberties on Malta were obvious.

A final concern arises from Coleridge's text. He was careful to state that "no status or condition of person, and not even minors, shall be exempt from the severity of the punishment."

One of the convicted Maltese, Bonello, was a twelve year old boy from Cospicua. This was the town where other convicted agitators resided - a place that had been a hot-bed of anti-Semitic sentiment. The boy must have had his head filled with anti-Semitic sentiment, which was likely to have coloured his imagination when he set out to fish early on the morning of the day following the first outbreak. His difficulties with the authorities arose after he reported jumping into the Grand Harbour to flee from Jews whom he thought would attack him. He was arrested, tried and convicted for spreading the ancient blood-libel that children would be killed by Jews. On the evidence, his treatment appears to have been harsh, not least because witnesses in an ID parade could not identify him. Moreover, as a twelve year old, it would not have been surprising if he had given credence to what he had heard adults repeating. After all, if they were sufficiently gullible to believe that the Jews were stealing children (when none were missing) how could a boy be expected to realise the truth? As we shall see, the boy's ignorance was a ground which his mother was later to argue justified clemency.

None of the problems with Bonello's case impressed Ball who, through Coleridge, expressly informed the Maltese that even minors would be liable to punishment. Coleridge's text explicitly abolished the rule of *doli incapax*, which is the conclusive presumption that a child under the age of criminal

responsibility could not be legally responsible. Ball's instructions meant that no matter how young or immature *any* child could be indicted for the mere *actus reus* of the new "crime" (in this case repeating untrue words about the Jews, whether or not the child understood that the words were untrue).

Ball's Motives

Ball imposed sentences that were above the maximum permitted by law because British strategic interests depended upon maintaining the Island as a stable military base. Popular insurrection could not be countenanced. The severity of the punishments ensured strong general deterrence, denunciation and retribution. General deterrence was achieved because Ball wanted to signal to Maltese society that all anti-Semites, no matter how young, would be severely punished. The infliction of physical punishment by whipping also signalled retribution for the assaults and intimidation of individual Jews. Ball must have felt that the crisis was so dangerous that he could not trust the Maltese courts to vindicate his ultimate policy goal: the suppression of dissent.

Ensuing events re-inforce this conclusion. The justice system was simply a tool by which the Island would be managed in the long term British interest. As policy shifted, so the outcomes in individual cases would be altered to suit the political needs of the moment. When the interests of the Maltese criminal justice system and British strategic interests collided, Ball would prioritise the latter. To borrow from Coleridge, it was to be a triumph of expediency over principle, prudence over virtue (CN2 2412, January, 23rd, 1805).

Ball's Volte Face

As early as June 1805, Bonello's mother petitioned the Civil Commissioner to have the boy's exile rescinded. He had been sent to Gozo where, she asserted,

“(...) he is suffering from hunger and lives in extreme poverty, deprived of every human comfort. Wandering around like a stranger, he is tormented by other children and (...) he deserves compassion” (National Archive of Malta, 92/ 04, box 7, 1805).

Although the petition was presented barely three weeks into the boy's exile, Ball granted her request and the boy returned to Malta. Given the serious political risks that Ball had run in so publicly breaching the *Code de Rohan* this sudden *volte face* was surprising. Why had there been such harsh repression if he was prepared to relent so soon?

The favourable outcome in Bonello's case naturally triggered another of the accused, Andrea Borg, to pursue similar redress, and Ball again relented.

The successful outcome in Borg's case revealed that Ball's *volte face* was not linked to troubling second thoughts about juvenile injustice (*Registro dei Memoriale e Decreti da Sua Eccellenza il sig Cavalier Alessandro Ball Regio Commissionario Civile di Sua Maestro Britannico*, NAM LIBR 43/11 vol N). There had clearly been a general reversal of policy. Criminal justice considerations, such as general and individual deterrence were no longer the Civil Commissioner's guiding principles.

Criminal Justice or Political Advantage?

It is evident that Ball's policy had changed. British interests now lay elsewhere than in punishing the guilty. Their releases were intended to be prominent public relations gesture, which became necessary because it was now more important to demonstrate publicly that Ball was a benign, paternal governor capable of showing compassion. A close reading of Coleridge's other legal and administrative texts reveals how this message had already become central to his public relations campaign. Following the damaging summary banishment of a Maltese who petitioned the Civil Commissioner for political reform, Coleridge had already been forced to present Ball to the Maltese public as a paternal figure concerned only for the welfare of the Maltese. As the relevant instrument had unconvincingly stated,

"His Excellency the Royal Commissioner is very much hoping to avoid the necessity of punishing anybody, or of making anybody suffer even slightly." (Avviso March, 22nd 1805, LIBR/MS 430 2/2 Bandi 1805 AL 1814 f6).

Similar statements also appear after the trials of May 1805.

The reason for Ball's sudden reversal of policy can be found in the surviving records. At some brief time after Ball's anti-Semitic crack-down the Maltese nationalists decided to petition the British Crown for political and Constitutional reform. They had given up pursuing reform via the Civil Commissioner in the *Segnatura* (the council) because petitioners seeking constitutional change were summarily exiled to the Barbary Coast. Once they

realised that Ball would brutally suppress any expression of political dissent, the Nationalists had to pursue other avenues of redress, which meant involving Ball's superiors.

The petition to the Crown in London was the first of a series of complaints complaining of Ball's behaviour and incompetence in office that were presented to the British Secretary of State during 1805 and 1806. The language of the 1805 petition is both revealing and condemnatory. Ball's 'despotic scourge' and 'thundering vengeance' disclosed that the population feared his administration. Far from being popular, the British were perceived as omnipotent despots who ruled by arbitrary interventions overruling the Maltese judicial process. According to the petitioners, the Civil Commissioner showed a ruthlessness that had not even been possible under the worst of their former Grandmasters. The petition lists many of the perceived policy failures of the British provincial administration. For present purposes the most significant requests were that non-one should be punished without trial; that cases should be tried by judges in accordance with the law and that the "sentences may be mitigated, but not augmented by the Commissioner and that those sentences may be pronounced in open court *and not first submitted to the Civil Commissioner*" (Emphasis supplied).

The lesson that Ball had learned whilst commanding a ship at sea, namely that Rule of Law values contribute to just punishments and a stable society had been forgotten when he ruled the civilians of Malta. It seems that he had also overlooked his own injunction that inflicting punishment within the

range permitted by the positive law prevented “secret plots and conspiracies” and “took away the very will of resisting”.

By June 1805 the Maltese were both plotting and resisting. The petition was just the beginning of an organised and sustained attempt to de-stabilise his government and have the Civil Commissioner recalled. Soon images and graffiti lampooning him and his government were reported to have appeared all over Valletta. The agitators wrote to the Secretary of State that there was a general loss of faith in Ball.

Coleridge’s Response

Having reluctantly accepted public office Coleridge was compelled to address this imbroglio. The central expectation placed on him in his official role at the heart of a government was to maintain stable British rule. His major task, which was to Maltese public opinion back in British favour must have been formidable.

Coleridge’s later opinions on British policy on Malta are elusive and contradictory. An early conclusion was that the administration of Malta under Ball was a “wicked machinery” (to Daniel Stuart, August, 22nd, 1806, Letters II, 1178). If this truly reflected his position, he may have published the posthumous eulogy of his Ball, his former friend and mentor, for reasons of loyalty. He might also have felt a sense of collective ministerial responsibility which constrained him in public; after all, Coleridge had been a party to the decision-making and could not thereafter publicly dissent from the actions of

government. Such a view finds some support in Dorothy Wordsworth's letter to Catherine Clarkson (to C. Clarkson, November 6th 1806). She reported that Coleridge only wished to discuss "Malta, Sir Alexander Ball the corruption of government". His explicit reference to corruption reinforces the wickedness to which he had already privately referred and sits uneasily with the eulogy of Ball.

However, this assessment overlooks the apparently genuine affection for Ball that Coleridge exudes in *The Friend*. One example is typical of Coleridge's effusive assessment: "(Ball was) a truly great man, (the best and greatest public character that I had ever the opportunity of making myself acquainted..)" (I, 169) But how did Ball's policies align with the principles of morally informed government that Coleridge expounded in *The Friend*?

The Friend

Coleridge was not troubled by the Maltese Constitution under which the Civil Commissioner ruled on the basis of Royal Instructions from London and, emphatically, without a representative assembly. The autocratic paternalism and absolute refusal to share power with the Maltese were not, characteristics that were necessarily inimical to justice. The way in which governmental power was exercised was more important than the source of Constitutional powers. In other words, Coleridge had decided that who held power was unimportant provided that this power was exercised according to Reason. Reason, Coleridge explained, is connected to the divine. It is the

conscience that informs moral action. It is the distinguishing characteristic of humanity. Laws that offended Reason deny the ruled population this humanity:

“Laws obligatory on the conscience, can only (...) proceed from that Reason which remains always one and the same, whether it speaks through this or that person: like the voice of an external Ventriloquist, it is indifferent from whose lips it appears to come..” (Friend I, 192).

Morally informed government was not confined to the realm of Utopian politics. Reasoned government, at its most fundamental level, was the most effective practical approach to government—the very business of government (I, 152-3). Coleridge’s thought that misconceived or inept policy making itself derived from unprincipled, “unreasoned” government. Unprincipled, reactive politics would become the resort of the unwise governor to side-step immediately pressing political difficulties. “State craft”, rather than “state wisdom” would be the result. According to Coleridge, reactive policies designed to fend off the immediate problems of the moment had the appearance rather than the reality of advancing the public interest. “Expedient-makers” provided only “fire-engines against fires, Lifeboats against inundations; but no houses built fire-proof, no dams that rise above the watermark” (I, 152-3). Principled government was the pre-eminent characteristic of just and effective government. Policies that were merely tailored to seeking short-term political advantage could not truly vindicate the public interest.

The moral foundations of government were non-derogable. Neither grave political crisis nor public emergencies, such as disorder, justified departure from the moral principles underpinning Constitutional principle and civil liberty. In this respect Coleridge was certainly consistent: his views were reinforced rather than refined by his Malta experiences. He had not altered his views since he had condemned Pitt's suspension of the writ of habeas corpus (EOT 279, 305).

Coleridge in *The Friend* identified the rule of law or, as he termed it, the 'sovereignty of law' as the first amongst the hallmarks of a principled constitutional order (I 232). He was also clear that the role of government was not to pursue the happiness of a people, but to ensure their freedom. This was to be achieved by removing restrictive or intrusive laws (however defined) leaving only those that prevented one individual from infringing the autonomy and freedom of action of another (I, 198). Checks and balances-correctives such as the free press and public debate of a government's actions- underpinned civil liberties by constraining the sovereign power (I, 193).

Malta under Ball

A government under the Rule of Law constrained by a separation of powers that would provide minimal checks and balances on the Civil Commissioner was, however, entirely absent on Malta. Government was not unaccountable because the Maltese lacked the right to dismiss the Ball from office; there was no representative assembly, nor public debate on policy questions; power was not shared; there was no free press; and the Maltese-speaking

population was illiterate. Coleridge's complacent account of Malta suggests that autocracy was acceptable because it provided strong paternal control of a poorly educated people who had shown themselves prone to violent insurrection.

Checks and balances would perhaps be redundant and possibly counter-productive because Ball, in Coleridge's eyes, personified the wise, benign governor. In *The Friend* Coleridge seems to have accepted that even rules of Constitutional status could yield where Ball's policies required it (I, 544). In other words, Coleridge's view was that Ball acted wisely in suppressing the disturbances, even if this meant departing from the *Code de Rohan* and the principles of a fair trial.

However, this conclusion means that the morally informed, principled government is not founded upon a universal ethical standard. Reason thus offers only a relative or contingent standard. Contrary to Coleridge's assertion in *The Friend* that Reason remains "one and the same" regardless of the identity of the Sovereign power (I, 192) it seems that the circumstances of colonial government justified different legal standards from those that applied in England.

A Failure of Policy

Ball's political direction of the criminal justice system eventually harvested the problems of unprincipled, counter-productive public administration that Coleridge later condemned in *The Friend*.

Eton, the Superintendent of Quarantine who was now resident in England, relayed information from informants to the British Secretary of State. He complained that Malta was in an "alarming state" (Eton to Windham, October, 11th, 1806, Kew). Ball's actions in the disturbances and other events had terrified the Maltese. Eton further informed Windham that if Ball discovered the identity of his informants their lives would be at risk. He said they "will look upon themselves as doomed to perish" (*Ibid*). Other information emanating directly from Malta referred to local "discontent and disharmony" (Borg to Eton, May 23rd, 1806, Kew).

The undated petition presented directly to the British Crown is the most revealing evidence of Maltese anger provoked by Ball's criminal justice policies. Even the fact that the Maltese could no longer raise their concerns directly with Ball is itself suggestive of their deep distrust of him. Besides, all avenues for peaceful redress had been exhausted once Ball had summarily exiled a petitioner for political reform (Memorial and Petition of the Maltese Kew, CO 158/10/151 *et seq*).

Coleridge's assertion in *The Friend* that Ball's actions during the emergency had been 'wise' (*The Friend*, I, 544) can be seen as little more than a smoke-screen. Using the pretext that papers transmitted disease, Ball's spies opened the mail, and must have gained an inkling of the major allegations against him and the demands for reform. Within weeks of the anti-Semitic hysteria Ball knew that his policy was unsustainable. This explains why Ball suddenly changed his mind and brought the anti-Semites home to Malta. Compassion would, he hoped, limit the political embarrassment and calm dissent. The unashamed, public reversal of policy attempted a signal to the Maltese that he should not be seen as an inflexible despot. The goal had shifted away from interests of criminal justice towards prioritising the softening of Ball's public reputation. Coleridge was recruited to this important task. The Civil Commissioner now wanted to be seen as a governor who would even be willing to reverse policy to "avoid the necessity of punishing anybody, or of making anybody suffer even slightly".

Coleridge was set to work to use government information to counter the general suggestions in the petition that Ball was a tyrant. His *Bandi* and *Avvisi* stress how Ball was a self-sacrificial, benign governor concerned only for the welfare of the Maltese. It was an all-out propaganda offensive: but it was now too late to prevent the Secretary of State from demanding that Ball give a detailed account of his administration (Windham to Ball, January, 6th, 1807, Kew, CO 159/3/220). Ball's standing and reputation in London had been damaged. Moreover, even the loyal Coleridge was later to conclude that, "pure lawless despotism grounding itself wholly on terror precludes all

consideration of duty”, and further that a patriot has a duty to overthrow tyranny (*The Friend* I, 71). Did his sympathies lie with the Maltese Nationalists or did he have other causes in mind in 1818?

The account of the disturbances is one of contradictory and lawless politics that Coleridge witnessed at first hand. In *The Friend* he later concluded that Reasoned or principled government was ultimately the only means of achieving public interest goals; and he avoided a detailed discussion of Ball’s actions because these so obviously conflicted with his ideal. If the principles of *The Friend* are universal principles, we might conclude that Coleridge was privately critical of Ball’s methods.

But there is another possibility. If Coleridge genuinely believed in Ball’s wisdom in office, the conclusion must be that the Maltese entitlements to justice were not those Coleridge outlined in *The Friend*. In other words, government according to the rule of law and the principles of fair trial were not Maltese entitlements. If this is so, it suggests that his Malta experience encouraged Coleridge to move towards a conservative politics that accommodated the British goals of Empire.

Bibliography

Beer, G. L., *The Origins of the British Colonial System 1578- 1660*, (New York: 1908.

Coleridge, S. T., The Friend, The Collected Works of Samuel Taylor Coleridge, general editor Kathleen Coburn, London: Routledge & Kegan Paul, Bollingen Series, 1969.

Dorothy Wordsworth's Letters, E de Selincourt, Oxford: Clarendon Press 1937.

Eton, W., Authentic Materials for a History of the People of Malta, London: 1802-7.

Montesquieu, De L'esprit Des Lois, 1748, Trans., Nugent, T., G. Bell & Sons, Ltd., London, 1914.

Thomas of Monmouth's The Life and Passion of St William the Martyr of Norwich, 1173